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In re Application of :
BITTROFF, Ulrich, et al. :
U.S. Application No.: 10/019,864 : DECISION
PCT No.: PCT/EP00/04071 :
International Filing Date: 06 May 2000 :
Priority Date: 11 May 1999 :
Attorney's Docket No.: 520.1005 :
For: METHOD FOR ESTABLISHING A CONNECTION IN :
A TELECOMMUNICATIONS NETWORK :

This decision is issued in response to the "Response To Notification Of Defective Response" filed 27 June 2002, which has been treated in part as a petition under 37 CFR 1.182 to change the name of the inventor identified in the international application as Laetitia DE CAMBRAY to Laetitia BOETSELAARS, the name used by this inventor in the filed declaration. Deposit Account No. 50-0552 has been charged the required petition fee.

BACKGROUND

On 06 May 2000, applicants filed international application PCT/EP00/04071 which claimed a priority date of 11 May 1999 and which designated the United States. On 16 November 2000, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB").

On 02 November 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 11 November 2001.

On 09 November 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and an executed declaration.

On 25 February 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 was required, as well as a surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notification also informed applicants that the failure to submit these materials within two months of the date of the Notification would result in abandonment of the application.

On 20 March 2002, applicants filed a "Response To Notice Of Missing Parts" which included an executed declaration and the required surcharge payment.

On 03 April 2002, the DO/EO/US mailed a "Notification Of A Defective Response" indicating that the declaration filed on 20 March 2002 was defective because it was not properly executed and because it contained a change in one of the inventor's names (the inventor identified in the international application as Laetitia DE CAMBRAY was listed in the declaration as Laetitia BOETSELAARS).

On 27 June 2002, applicants filed the "Response To Notification Of Defective Response" considered herein. This response included an affidavit stating that the name of the inventor identified in the international application as Laetitia DE CAMBRAY had been changed to Laetitia BOETSELAARS due to marriage. The submission also included the fee for the required two-month extension of time to respond.

DISCUSSION

Under M.P.E.P. Section 605.04(c), a petition to change the name of an inventor must be made under 37 CFR 1.182 and it must include the petition fee and "an affidavit signed with both names setting forth the procedure whereby the change of name was effected" or "a certified copy of the court order."

Here, based on the authorization contained in the response, Deposit Account No. 50-0552 has been charged the \$130 petition fee. The petition was accompanied by a copy of an affidavit in which the inventor states that her name has changed because of marriage; the declaration was signed by the inventor in both her current name (Laetitia BOETSELAARS) and her former name (Laetitia DE CAMBRAY).

Based on the above, applicants have submitted all the requirements for a grantable petition to change the inventor's name.

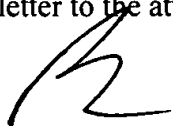
However, a review of the declaration filed on 20 March 2002 reveals that, even with the change in the inventor's name, the declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. Applicants have submitted two complete two page declarations, and two additional copies of the sheet numbered 2 of 2. It is unclear if the inventors who executed the two additional copies of page 2 (Christof LORANG and Carla CAPELLMANN) were presented with only this page "2 of 2," in which case the execution would be improper, or they if he was presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the documents filed 20 March 2002, which is also improper. (See MPEP 201.03.)

CONCLUSION

Applicant's petition under 37 CFR 1.182 to change the name of inventor Laetitia DE CAMBRAY to Laetitia BOETSELAARS is **GRANTED**.

However, as discussed above, the apparent compilation declaration filed on 20 March 2002 remains unacceptable. Because the "Notification Of Defective Response" did not specify the nature of the defect in execution (beyond the inventor's name change, addressed herein), applicants are given **TWO (2) MONTHS** from the mail date of the present decision to submit a proper and complete declaration in compliance with 37 CFR 1.497. Failure to file a timely and proper response will result in abandonment of the application.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Legal Affairs Division of the PCT Legal Office.



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